

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

JEFFREY D. WILSON, an individual,)	
)	
Plaintiff,)	Case No. 2:23-cv-04058
)	
v.)	JURY TRIAL DEMANDED
)	
NETFLIX, INC., a Delaware Corporation,)	
)	
Defendant.)	

COMPLAINT

Jeffrey D. Wilson (“Mr. Wilson”) brings this action seeking relief for the infringement by Defendant of Mr. Wilson’s copyrighted work *Queen Anne’s Revenge*, Registration Number TX 8-894-998, (the “Copyrighted Work”). Mr. Wilson brings this action at law for copyright infringement pursuant to The Copyright Act of 1976, 17 U.S.C. §101, against Defendant Netflix, Inc, for actual damages, profits of Defendant, costs, and other proper relief pursuant to 17 U.S.C. §§ 504 & 505.

PARTIES

1. Mr. Wilson is an individual who resides and is domiciled in Independence, Missouri.
2. Defendant Netflix, Inc. (“Netflix”) is a corporation organized pursuant to the laws of the State of Delaware with its principal place of business at 5808 Sunset Blvd., 11th Floor, Los Angeles, California, 90028. Netflix does business as a media streaming service and content production company across the United States including in Missouri.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. §§ 1331, 1332(a), and 1338(a).

4. This Court has personal jurisdiction over Defendant because Netflix advertises and urges Missourians to use its service and maintains Netflix availability and customer service in the State. In addition, Defendant has sufficient minimum contacts with this State and purposefully availed itself of the laws of this State by violating Missourian Mr. Wilson's copyrighted work and by directing the distribution of the infringing series to the residents of this State, sufficient to permit and justify the exercise of personal jurisdiction over Defendant. Netflix may be found and is doing business in the Western District of Missouri. In addition, Netflix offers for sale subscriptions to its services in this District. Further, Netflix offers for download the infringing works in this District. In addition, Netflix advertises and promotes the Infringing Work in this District. The cause of action arises from in part Netflix's contacts with the forum such that Defendant can reasonably anticipate being haled into court in this forum. The connections between Defendant and the forum relate to the claims at issue in this suit.

5. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(a). Netflix may be found and is doing business in the Western District of Missouri. Defendant directs Infringing Acts to this jurisdiction by making the Infringing Work available for download, among other infringing acts. Further, because personal jurisdiction over Defendant is proper in this District, venue is proper in this district.

FACTS

A. Mr. Wilson's Copyrighted Work

6. Mr. Wilson is the author of the Copyrighted Work. The Copyrighted Work is a book.

7. Mr. Wilson spent eight years researching, planning, and refining his writing, developing the characters and storylines that would become the Copyrighted Work.

8. The first draft of the Copyrighted Work was authored by Mr. Wilson from January of 2003 through July of 2004. The next four years were spent by Mr. Wilson refining his draft through multiple edits and rewrites.

9. Mr. Wilson completed the Copyrighted Work in 2008, later to be published with Create Space, an Amazon subsidiary, on June 10th, 2013. A copy of the Copyrighted Work is included with this complaint as Exhibit A.

10. The Copyrighted Work was duly registered with the Copyright Office on September 15, 2020. Exhibit B.

11. The official book launch took place on July 28th, 2013, at a book signing during a collaboration between the Real Pirate Exhibit, which was sponsored by the Discovery Channel and History Channel, and the historic Union Station in Kansas City.

12. Mr. Wilson has continued to promote his book by having other in person signing events up until March of 2020.

13. Since June, 2013, the Copyrighted Work has been continuously available both digitally and in hard copies from at least the following outlets: Create Space, Amazon-Paperback and Kindle version, Barnes and Noble, Google, GoodReads, WattPad, SAPNA Online.com, Ebay, Half Price Books, Fiction DB, Fish Pond Books, Book a Million, Better World Books, Valore Books, Mager and Quinn Sellers, Book Depository, Abe Books, DY Mocks, Book Bub, LadyLakeBooks, Prime Deals USA, SuperBookDeals, Bahamut Media, and multiple used book retailers.

14. The Copyrighted Work has also been featured on numerous social media sites since 2013 including: Facebook, LinkedIn, Pinterest, WattPad, GoodReads, and Twitter.

15. The Copyrighted Work has also been continuously promoted on Barnes and Noble and Kindle Book Promotions with various price specials. The Copyrighted Work has also

been continuously available, promoted, and “checked out” on the Kindle Owners Lending Library.

B. Defendant's Infringing Conduct

16. Netflix is engaged in the business of media streaming as well as production of its own original content through the Netflix Originals program.

17. On May 3, 2019, Netflix requested Daniel Burke, Jonas Pate, and Joshua Pate to begin production of *Outer Banks* (the “Infringing Work”). Within a few months Burke, Jonas Pate and Josh Pate, wrote, developed, and began production on the first ten-episode season of the Infringing Work. The first season was released April 15, 2020.

18. The Infringing Work was a major success for Defendant as it spent many days in the number one position on Netflix for viewership and remained in the top ten most watched shows for much of the summer in 2020.

19. The Infringing Work became a worldwide sensation which allowed Defendant to sell merchandise as well as license rights in the Infringing Work to be used by other companies.

20. Netflix Renewed the Infringing Work for a second season on July 24, 2020. The ten-episode second season was then released on July 30, 2021. The second season of the Infringing Work also topped the Netflix chart for the most viewed show.

21. Netflix Renewed the Infringing Work for a third season on December 7, 2021, which was released on February 23, 2023. The third season of the Infringing Work also topped the chart for the most viewed show. The season ended with a much-talked about cliffhanger setting up season four.

22. Netflix Renewed the Infringing Work for a fourth season, which was announced during a massive party on February 18th, 2023. The cliffhanger outlined a main storyline that fans can expect in the upcoming seasons. It includes but is not limited to the following: A group,

which includes a descendant of a slave, come into possession of something formally owned by Edward Teach, aka Blackbeard. It includes handwritten coordinates along the 76 West latitude line on a map. Upon realizing it is something directly written by Blackbeard, it sparks the genesis for an adventure searching for the lost riches of the Queen Anne's Revenge, Blackbeard's ship.

23. All four seasons of the Infringing Work are alleged to infringe Plaintiff's copyright herein.

24. Prior to writing the Infringing Work, Mr. Burke sold his books on many of the same platforms as Mr. Wilson, most notably Amazon and Kindle, where the Copyrighted Work was both published and highly promoted. Many of the platforms offer a special author portal that would have given Mr. Burke even greater access to peruse, research, and read the Copyrighted Work to copy while developing the Infringing Work.

25. The creators stated in interviews that they relied on other books and authors for inspiration while writing the Infringing Work.

26. The Copyrighted Work and the Infringing Work are substantially similar in numerous ways that make it unlikely that the Infringing Work was created independently of the Copyrighted Work.

27. Both the Copyrighted Work and the Infringing Work have Characters that share similar traits and follow substantially the same character development arcs over the course of the stories. For example:

- (a) The character of Henri Clarke from the Copyrighted Work is substantially similar to the character of Denmark Tanny from the Infringing Work. Both characters are former slaves, who become privy to a substantial treasure on the ships they are working on. Both characters take the treasure from the ships and transport it through a swamp to be hidden within a secret

cavern inside a well. Both Characters use their freedom from slavery to help others become free. Both characters pass on clues as to where the treasure is hidden to their heirs.

- (b) The character of Ezekiel from the Copyrighted Work is substantially similar to the character of Big John Rutledge from the Infringing Work. Both characters are fortune hunters who spend their lives searching for a lost treasure in the Outer Banks of North Carolina. Both characters have a secret cache of their life's research including old maps and a family heirloom passed through the generations. Both characters argue with their children over the treasure. Someone discovers that both characters have information about the treasure, that person then tries to steal it, and the confrontation turns violent. Both characters' research is then passed down eventually leading to the adventure of their descendants searching for the treasure in the Outer Banks of North Carolina.
- (c) The character of Rose from the Copyrighted Work is substantially similar to the character of Mee Maw from the Infringing Work. Both characters are direct descendants of former slaves who were the sole survivors from a famous ship. Both characters inherit the family heirloom passed down through the generations without ever realizing the true value of those heirlooms. Both characters lack any knowledge that the heirlooms contain a clue that would lead to the location of the hidden treasure.
- (d) The character of Sophie McGregor from the Copyrighted Work is substantially similar to the character of John B from the Infringing Work. Both characters are estranged from a missing parent and have become

distant with their remaining parent due to work. Both characters set out on a quest to find the truth about why their missing parent is not in their life. Both characters receive a broken heirloom that was passed down at least five generations and discover the heirlooms are unbelievably valuable. Both characters run wild due to their lack of parental supervision and have a party on the beach. Both characters go on joyrides while taking unnecessary risks, breaking several laws, and both barely escape getting into big trouble. Both characters initially fail to find the treasure, but through research from a library archive they discover additional clues leading to the true location of the treasure.

28. The Copyrighted Work and the Infringing Work share substantially similar key scenes that are crucial to the plot of both works:

- (a) Both works involve a hunt for a treasure from a famous ship that is hidden by a former slave. The hunt takes the group around the Outer Banks of North Carolina. They search through the backwoods, a graveyard, and end up at a location where someone was brutally murdered and decapitated.
- (b) In both works a bone from the head of a murder victim is found at the murder scene.
- (c) In both works the characters find a cylindrical hole hidden beneath a platform. When they shine a flashlight on it, they realize it is deep enough that light does not reach the bottom.
- (d) A character in both works is then lowered by a rope harness into the well. The rope is tied in a very specific way to keep the character's hands free. Both characters are lowered in a seated position.

- (e) Both works have the characters lowered into perfectly cylindrical wells made of hand cut stones. They make it to the bottom but do not find anything there but contaminated water. The characters then ask to be pulled back out.
- (f) In both works the characters stop part way up and notice a spot on the wall of the well that looks distinct having been cobbled together from different stones. Both characters shout out of the well to have the characters above stop pulling them out of the well.
- (g) While hanging in the darkness of the well, both characters break through the fake wall causing stones to fall down the well and reveal a secret cavern behind the stones.
- (h) Both characters go into the hidden area and after navigating a slick embankment find themselves in a cavern with water dripping from the ceiling.
- (i) Both characters then find the lost treasure, including gold.
- (j) Both characters only take a small piece of the treasure with them. The other characters holding the rope are worried for their safety and shout down the well to try to get a response.
- (k) While returning to the surface from inside the well, both characters slip from the ropes causing them to fall. This causes injuries to the hands of the characters on the surface who are holding the rope as they try to stop the fall.

29. The Copyrighted Work and the Infringing Work share substantially similar key themes throughout their stories:

- (a) Both works contain the struggle for survival, respect, and the right to live free between two economic classes.
- (b) Both works involve exploration of the theme “that if you cannot see racism then it does not exist.”
- (c) Both works emphasize the theme of “the clothes make the man”.

30. The Copyrighted Work and the Infringing Work both share substantially similar settings throughout the stories;

- (a) Both works involve an impoverished homestead away from town. The homesteads feature chickens in coops that are raised to provide sustenance.
- (b) Both works have marshy wetlands with overgrown weeds and vines that the characters must navigate through while dealing with the large mosquito population.
- (c) Both works share expansive open roads that connect the islands of the Outer Banks of North Carolina.
- (d) Both works contain the endless windswept barrier beaches of the Outer Banks of North Carolina.
- (e) Both Works feature the iconic lighthouses of the Carolinas.
- (f) Both works have a coastal ferry system that navigates the waterways of the Outer Banks of North Carolina.
- (g) Both works feature quaint North Carolina Beach Towns.
- (h) Both works feature a colonial era graveyard.
- (i) Both works feature the site of a murder with a platform covering a stone well.

- (j) Both works contain a stone well with a hidden cavern behind loose stones therein.

31. The Copyrighted Work and the Infringing Work both share substantially similar moods and paces.

COUNT ONE
Federal Copyright Infringement
(17 U.S.C. § 501)

32. Plaintiff repeats and realleges all preceding paragraphs as if fully set forth herein.

33. The Copyrighted Work is an original literary work containing copyrightable subject matter for which copyright protection exists under the Copyright Act, 17 U.S.C. § 101, et. seq. Plaintiff is the exclusive owner of rights in and to the Copyrighted Work. Plaintiff holds a valid copyright registration for the Copyrighted Work, attached as Exhibit B.

34. Through Defendant's conduct alleged herein, including Defendant's distribution and public display of the four seasons of the Infringing Work, which is derivative of, and substantially similar to Plaintiff's Copyrighted Work, without Plaintiff's permission, Defendant has directly infringed Plaintiff's exclusive rights in the Copyrighted Work in violation of Section 501 of the Copyright Act, 17 U.S.C. § 501.

35. Defendant's infringing conduct alleged herein has enabled Defendant illegally to obtain profit therefrom.

36. As a direct and proximate result of Defendant's infringing conduct alleged herein, Plaintiff has been harmed and is entitled to damages in an amount to be proven at trial. Pursuant to 17 U.S.C. § 504(b), Plaintiff is also entitled to recovery of Defendant's profits attributable to Defendant's infringing conduct alleged herein, including from any and all sales of the Infringing Work and products incorporating or embodying the Infringing Work, and an accounting of and a constructive trust with respect to such profits.

37. Plaintiff further is entitled to his costs pursuant to 17 U.S.C. § 505.

38. As a direct and proximate result of the Defendant's infringing conduct alleged herein, Plaintiff has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. Unless Defendant's infringing conduct is enjoined by this Court, Defendant will continue to infringe the Copyrighted Work. Plaintiff therefore is entitled to permanent injunctive relief restraining and enjoining Defendant's ongoing infringing conduct.

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

1. That Defendant has violated Section 501 of the Copyright Act (17 U.S.C. § 501).
2. Granting an injunction permanently enjoining the Defendant, their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of the foregoing persons and entities who receive actual notice of the Court's order by personal service or otherwise, from:
 - (a) Distributing, marketing, advertising, promoting, displaying, or selling or authorizing any third party to distribute, market, advertise, promote, display, perform, or sell the Infringing Work and any products, works, or other materials that include, copy, are derived from, or otherwise embody the Copyrighted Work;
 - (b) Creating any derivative works based on the Copyrighted Work, or engaging in any activity that infringes Plaintiff's rights in its Copyrighted Work; and
 - (c) Aiding, assisting, or abetting any other individual or entity in doing any act prohibited by sub-paragraphs (a) or (b).

3. That Defendant be ordered to provide an accounting of Defendant's profits attributable to Defendant's infringing conduct, including Defendant's profits from sales of the Infringing Work and any products, works, or other materials that include, copy, are derived from, or otherwise embody the Copyrighted Work.

4. That Defendant be ordered to destroy or deliver up for destruction all materials in Defendant's possession, custody, or control used by Defendant in connection with Defendant's infringing conduct, including without limitation all remaining copies of the Infringing Work and any products and works that embody any reproduction or other copy or colorable imitation of the Copyrighted Work, as well as all means for manufacturing them.

5. That Defendant, at its own expense, be ordered to recall the Infringing Work from any distributors, retailers, vendors, or others that have distributed the Infringing Work on Defendant's behalf, and any products, works or other materials that include, copy, are derived from, or otherwise embody the Infringing Work or the Copyrighted Work, and that Defendant be ordered to destroy or deliver up for destruction all materials returned to it.

6. Awarding Plaintiff:

- (a) Defendant's profits obtained as a result of Defendant's infringing conduct, including but not limited to all profits from sales and other exploitation of the Infringing Work and any products, works, or other materials that include, copy, are derived from, or otherwise embody the Infringing Work or the Copyrighted Work, or in the Court's discretion, such amount as the Court finds to be just and proper;
- (b) Damages sustained by Plaintiff as a result of Defendant's infringing conduct, in an amount to be proven at trial;
- (c) Plaintiff's costs pursuant to 17 U.S.C. § 505.

7. Awarding Plaintiff interest, including pre-judgment and post-judgment interest, on the foregoing sums.

8. Awarding such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all claims in this action.

Dated: March 22, 2023

Respectfully Submitted

THE SIMON LAW FIRM, P.C.

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